

Legal Update November 15, 2012—Tori Sundheim, Legal Intern

Relevance to Council: We have sections that identify importance to the coequal goals of improved regional water management planning, including reduced reliance on the delta. We also address need to better manage groundwater resources.

Kern Water Bank Auth. v. City of Bakersfield, filed a *writ of mandate* to vacate Bakersfield's approval of its 2012 Kern River Flow and Municipal Water Program on Oct 26, 2012 in Superior Court, Metropolitan Division County of Kern.

Quick Facts: Bakersfield certified a Final EIR and filed a Notice of Determination for the 2012 Kern River Flow and Municipal Water Program on Sept 26, 2012 with "no significant impact." It would change water rights of 160,000 afy to recharge the groundwater basin and create "permanent, consistent and regular flow of water in the Kern River," underlying the city since the Kern County sub-basin is "critically overdrafted."

Relevant Issue: Whether the EIR contained an analysis of regional water supply impacts

- Baseline should include Kern Water Bank (20,000 afy from Kern River)
- Should analyze groundwater and regional groundwater impacts
- Should include pending permit applications

See **Preserve Wild Santee et al. v. City of Santee et al.** (--Cal.App.4th--, Fourth Appellate District Case No. D055215 [October 19, 2012]). Court of Appeal for 4th Appellate District held that the EIR for a 1,400-unit project violated CEQA for failure to provide an adequate supply analysis and improperly deferred mitigation.

We will continue to monitor the development of this case.